

COPY

RECEIVED
7/22/2006
DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)
A. Subcase Number: 63-00134
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho, Department of Parks and Recreation
Address: 5657 Warm Springs Avenue
Boise, Idaho 83716
Daytime Phone: (208) 334-2400

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER (ISB # 2597)
Deputy Attorney General
Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: HART-DAVIS DITCH CO INC
Address: c/o Jim Breszinsky
1111 Trout Rd
Eagle, ID 83616

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☒ Name and Address
Should be: State of Idaho, Department of Parks and Recreation
5657 Warm Springs Avenue
Boise, Idaho 83716
2. ☐ Source
Should be: _____
3. ☐ Quantity
Should be: _____
4. ☐ Priority Date
Should be: _____
5. ☐ Points of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: Not applicable.
7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☒ Place of Use
Should be: The IDP&R lands need to be described as the place of use.

11. I object because:

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The State of Idaho acquired the real property on Eagle Island for a prison farm in 1929. When the State of Idaho closed the prison farm, the Idaho Department of Parks and Recreation, (hereinafter "IDP&R"), and the Idaho Department of Fish and Game, (hereinafter "IDF&G"), acquired most of the old prison farm.

William E. Welsh, Watermaster for the Boise River, prepared a "Statement of Water Rights for Eagle Island Penitentiary Farm on Boise River," which summarized the water rights acquired by the State of Idaho on Eagle Island. A copy of this Statement is attached. Water Right No. 63-134 was originally designated as right no. 6 in the Stewart Decree. The State of Idaho owned the entire 3.30 c.f.s. of water right no. 6. The IDP&R has not found any transfer of the water right to the Hart-Davis Ditch Co.

F.

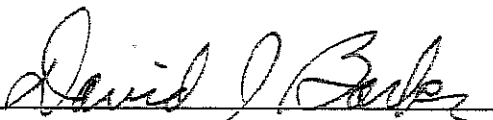
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

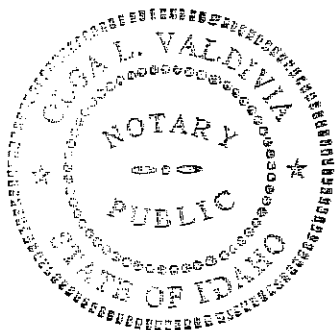
DAVID J. BARBER, Deputy Attorney General, duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Parks & Recreation, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Parks & Recreation which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General


By Attorney signing in representative capacity

Subscribed and sworn to before me on: April 20, 2006
(Insert Date)




Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2/8/2012

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on April 20, 2006, I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

FEDERAL EXPRESS
OVERNIGHT DELIVERY

2. One copy to the owner of the water right at the following address:

HART-DAVIS DITCH CO. INC.
c/o Jim Breszinsky
1111 Trout Rd
Eagle, ID 83616

U.S. MAIL

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

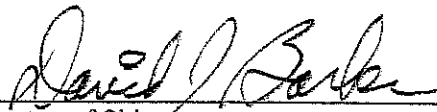
STATEHOUSE MAIL

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

U.S. MAIL

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

(not applicable)



Signature of Objector or attorney
Mailing on Objector's behalf

2 A

STATEMENT OF WATER RIGHTS FOR EAGLE ISLAND PENITENTIARY FARM ON BOISE RIVER

By Wm. E. Welsh, Watermaster, Boise River

In the case of the Farmers' Cooperative Ditch Company vs. the Riverside Irrigation District, Ltd., et al, commonly referred to as the Stewart Decree, are found the following awards:

Number	Date	Name	Amount Decreed Second Feet	Inches
5	6-1-64	Catlin & Mace	2.86	143
6	6-1-64	T. C. Catlin	3.30	165
52	6-1-71	Catlin & Mace	7.86	393

Upon examining an agreement now on file in the office of the Secretary of State which was entered into by the various parties of interest in the Catlin & Mace Ditch just immediately prior to the time of the purchase of the Penitentiary Farm by the State of Idaho, I find that rights numbers 5 and 52 were divided among these various users as follows: Also right Number 6.

Name	Inches	Date of Priority	Number
Charles P. Mace and Mary Mace	8.03	June 1, 1864	5
Charles P. Mace and Mary Mace	22.05	June 1, 1871	52
Frank Mace and Josie A. Mace	10.70	June 1, 1864	5
Frank Mace and Josie A. Mace	29.38	June 1, 1871	52
Benjamin Mace and Grace J. Mace	8.33	June 1, 1864	5
Benjamin Mace and Grace J. Mace	22.91	June 1, 1871	52
Wesley Mace and Rosa Mace	11.00	June 1, 1864	5
Wesley Mace and Rosa Mace	30.26	June 1, 1871	52
Grover Mace and Cora B. Mace	8.84	June 1, 1864	5
Grover Mace and Cora B. Mace	24.30	June 1, 1871	52
A. G. Coker and Margaret C. Coker	5.35	June 1, 1864	5
A. G. Coker and Margaret C. Coker	14.65	June 1, 1871	52
Karl Fischer, A Bachelor	90.75	June 1, 1864	5

Name	Inches	Date of Priority	Number
Karl Fischer, A Bachelor	249.45	June 1, 1871	52
Karl Fischer, A Bachelor	165.00	June 1, 1864	6

It is also noted that there is in this same file a stock certificate issued to the State of Idaho by the Hart-Davis Ditch Company for 165 shares which covers the 165 inches of water represented in right number 6. The abstract on file in the office of the Secretary of State shows that the State of Idaho purchased the T. C. Catlin Farm as described in the agreement referred to above from Karl Fischer, together with all water rights appurtenant thereto.

Therefore, the water rights now belonging to the State of Idaho for the Eagle Island Penitentiary Farm are as follows:

Number	Date	Name	Amount Decreed Second Feet	Inches
5	June 1, 1864	Catlin & Mace	1.815	90.75 ✓
6	June 1, 1864	T. C. Catlin	3.30	165.00
52	June 1, 1871	Catlin & Mace	<u>4.99</u>	<u>249.5</u>
		TOTAL	10.105	505.25

